

# Call to the Public Sign up Form

(Must be submitted in person, by fax or by email by 9:00 a.m. on the day of weekly  
Regular Council Meeting)

Today's Date: 06/22/05

Your Name: Richard Schecter

Your Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Discussion and action on a Motion  
to expand the Open Meeting and  
Notification Requirements of the  
City Plan Commission as follows:

Regardless of any wording to the  
contrary above, the City Plan  
Commission shall be required to  
hold an open meeting/hearing on  
any new action proposed for a  
parcel/tract that was previously  
subject to a contested hearing. The  
petitioner shall be responsible for  
notifying all previous participants of  
record (of the contested action(s))  
regarding the subject, date and time  
of the new hearing.

Topic: \_\_\_\_\_

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**JOHN COOK**  
MAYOR

**JOYCE WILSON**  
CITY MANAGER

**GEORGE G. SARMIENTO, AICP**  
DIRECTOR



**CITY COUNCIL**  
ANN MORGAN LILLY, DISTRICT 1  
SUSANNAH M. BYRD, DISTRICT 2  
J. ALEXANDRO LOZANO, DISTRICT 3  
MELINA CASTRO, DISTRICT 4  
PRESI ORTEGA, JR., DISTRICT 5  
EDDIE HOLGUIN JR., DISTRICT 6  
STEVE ORTEGA, DISTRICT 7  
BETO O'ROURKE, DISTRICT 8

**PLANNING, RESEARCH &  
DEVELOPMENT DEPARTMENT**

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**To:** Mayor and City Council  
Joyce Wilson, City Manager  
Pat Adauto, Deputy City Manager

**From:** George Sarmiento

**Re:** Item 11- Discussion and action on a Motion to expand the open meeting  
and notification requirements of the City Plan Commission

**Date:** July 21, 2005

Mr. Rick Schecter posted a public item on the City Council agenda on May 31, 2005. Staff was instructed to take the item to the Development Coordinating Committee and to the City Plan Commission (CPC) for recommendation. The item was subsequently postponed on June 28, 2005 so as to accommodate a public hearing at the CPC on July 14, 2005.

The recommendation from the City Plan Commission is that the issue of expanded notification requires more study. The CPC and staff see a benefit to having transparent processes, but want to strike a balance between creating more bureaucracy and being too onerous on applicants.

The CPC and staff also see an important role for neighborhood associations as they continue to build their capacity to keep residents informed of development activity.

The CPC recommends to City Council that a subcommittee of the Development Coordinating Committee meet with the newly formed Neighborhood Council to examine the notification requirements currently in place and recommend changes that would enhance the public's ability to stay informed over the long run. The final motion indicated that this work should be completed within a 90-day period.

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**PLANNING, RESEARCH &  
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7/22/2005

**TO:** City Plan Commission

**FROM:** Development Coordinating Committee

**SUBJECT:** Discussion & Action on following item: Regardless of any wording to the contrary above, the City Plan Commission shall be required to hold an open meeting/hearing on any new action proposed for a parcel/tract that was previously subject to a contested hearing. The petitioner shall be responsible for notifying all previous participants of record (of the contested action(s)) regarding the subject, date and time of the new hearing.

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The Development Coordinating Committee (DCC) unanimously recommended DISAPPROVAL of the proposed requirement above. While the request captures a worthwhile goal that DCC endorses to have wider public participation in development issues, the wording above does not provide a practical or objective way in which to apply this requirement.

First, it would be difficult and impractical to implement. A clear definition of "contested hearing" is needed as it is not clear what would constitute this nor is it clear which City department or departments would be required to document comments received that may be considered part of the "contested hearing." It would be administratively burdensome to create and maintain a database of parcels/tracts with such a designation. There is currently no system in place to track land across different developmental applications; the resources to implement such a system are not in place and would likely be difficult to obtain. Another challenge would be how this information is to be provided to applicants requesting "any new action" on the parcels/tracts as there are numerous departments that accept land development applications (that can constitute "new action" items). "Any new action" on a parcel or tract can include a large number of permits and applications for items processed by different departments ranging for subdivision application to building permit to water hook-up permit to a rock-wall permit. It would be impractical to have to have a City Plan Commission (CPC) hearing on all of these "new actions" necessitating a permit application for a given parcel each time that parcel required some kind of review or permit by the City. Further, many of these permit applications are not within the purview of the CPC at all; imposing an additional hearing for some parcels would go above and beyond the duties of the CPC and above and beyond the permit requirements for many case types. Finally, some bodies have distinctly separate duties and responsibilities from the CPC and imposing the above requirement could create conflicts between different governing bodies. One example of this is the Zoning Board of Adjustment, a quasi-judicial body whose cases do not go to either the City Plan Commission or the City Council and whose appeal process is directly to district court. Another example is the Historic Landmark Commission whose cases do not always necessitate action by the City Plan Commission.

Second, requirements for public notice are already in place for different case types. Various state requirements set minimum standards for public notice; the City exceeds many of the state notification requirements currently. Imposing the above proposal would subject some cases to a higher standard, effectively treating similar applications differently. Different treatment of similar applications may lead

to subjective rather than objective review and violates the standard of treating similarly situated cases equally.

Third, there are some development applications where ministerial review and approval by the City Plan Commission is a necessary action if the proposed development meets code requirements (i.e. Subdivision applications) per state law. There is limited additional action the CPC may take in these cases. Allowing public hearing in these cases may erroneously convey the message that those speaking before the CPC have input into the final decision when in reality the purview of CPC in these cases is itself limited. This creates a regretful impression for the public who may be discouraged by the fact that their input, per state law, will have no meaningful impact on the final decision rendered.

Fourth, the wording as presented applies to any parcel of land regardless of the type of case being processed. This covers a wide range of cases with divergent requirements. This item would apply a different standard to some cases above and beyond current requirements. Related to this is the issue that the range of permit applications on any given parcel is very broad and could include anything from a resubdivision to a grading permit, separate applications processed by different departments at various points in the development process.

Fifth, some development applications do not currently require any public input. Imposing the proposed requirement on some but not all cases would also lead down the slippery slope of different treatment for similar applications and possible arbitrary decisions.

There are various provisions for public notice within the Municipal Code for various applications types; many of these already exceed the minimum requirements per state statute. A summary of these include the following:

Major subdivision; Land Study, Vacation subdivision [cancels a subdivision recorded with County]; and Metes & Bounds dedication

- public input not required;
- agenda item posting at least 72 hours before CPC action date and time. [state minimum]
- mailed notice to adjacent property owners not required

Residential Resubdivision (supersedes prior recorded subdivision)

- public input required
- agenda item posting at least 72 hours before CPC action date and time. [state minimum]
- 15 day advance notice by publication [state minimum]
- mailed notice to all property owners within the original subdivision and within 200 feet of the area proposed for resubdivision [state minimum]

Vacation of public easements [removes dedicated easement]

- public input not required
- agenda item posting at least 72 hours before CPC action date and time. [state minimum]
- Written concurrence of all property owners abutting the easement proposed for vacation [state minimum]

Vacation of public right-of-way [removes dedicated street]

- public input required
- agenda item posting at least 72 hours before CPC action date and time. [state minimum]
- Written concurrence of all property owners abutting right-of-way proposed for vacation. [exceeds state minimum]
- Mailed notice to all property owners abutting the right-of-way, within the block contiguous to the public right-of-way proposed to be vacated, and within 200 feet of the property proposed to be vacated. [exceeds state minimum]
- Notice by publication 10 days before public hearing date.

Street name change

- public input not required
- agenda item posting at least 72 hours before CPC action date and time. [state minimum]
- Notice in writing to all property owners abutting the street name proposed for change.

Detailed site plan

- public input required
- agenda item posting at least 72 hours before CPC action date and time. [state minimum]
- Notice in writing to all property owners within 300 feet of application area. [planning policy: exceeds code and state minimums]

Zoning changes including special permits and release or amendment to zoning contracts or conditions placed on property when rezoned

- public input required
- agenda item posting at least 72 hours before CPC action date and time. [state minimum]
- Notice to property owners within 300 feet of application area. [exceeds state minimum by 100 feet]
- Notice to all recognized neighborhood associations when application is within their boundary. [exceeds state minimum]
- On-site posting of notice. [exceeds state minimum]

Historic District sites requiring Certificate of Appropriateness (cases may not appear before CPC)

- public input required
- agenda item posting at least 72 hours before HLC action date and time. [state minimum]
- mailed notice to adjacent property owners not required

Historic District sites Eligible for Administrative Approval (cases do not appear before CPC)

- public input not required
- mailed notice to adjacent property owners not required

Zoning Board of Adjustment cases (quasi-judicial body; cases do not appear before CPC)

- public input required
- agenda item posting at least 72 hours before ZBA action date and time. [state minimum]
- Notice to property owners within 300 feet of application area. [exceeds state minimum by 100 feet]

Additional land development applications that do not appear before the CPC and that do not require either public input or public notice include:

- Building Permit (BP&I)
- Demolition Permit (BP&I)
- Stormwater drainage permit (Engineering)
- Curb-cut permit (Traffic-Engineering)
- Grading permit (Engineering)

All of the above would be subject to the proposed requirement as would a slew of additional permit applications not listed here.

DCC recognizes that development issues impact property owners in many and diverse ways and agrees that better public notice can be one way in which to mitigate potential negative impact while at the same time allowing property owners to develop property for its highest and best use. Therefore, DCC recommends that a sub-committee of the DCC explore the issue further and make some recommendations in the spirit of this request that would not be as difficult or impractical to implement and present these to the City Plan Commission before the end of the year.

Cc: Joyce Wilson, City Manager Pat Adauro, Deputy City Manager  
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